

H-8094

1 Amend House File 2568 as follows:

2 1. Page 1, after line 18 by inserting:

3 <Sec. _____. NEW SECTION. 235G.1 **Definitions.**

4 As used in this chapter, unless the context otherwise
5 requires:

6 1. "*Disseminate*" means the same as defined in section 728.1.

7 2. "*Distributor*" means a person who owns or operates an
8 internet site or internet-based application.

9 3. "*Minor*" means a person under the age of eighteen.

10 4. "*Obscene material*" means the same as defined in section
11 728.1.

12 5. "*Personal identification information*" means an unexpired
13 student identification card, a valid social security card,
14 an unexpired driver's license, an unexpired nonoperator's
15 identification card, an unexpired passport, a certified copy
16 of a birth certificate, or other valid, unexpired proof of
17 identity.

18 Sec. _____. NEW SECTION. 235G.2 **Restriction on minor access**
19 **to internet sites and internet-based applications.**

20 A distributor shall not knowingly allow a minor to access the
21 distributor's internet site or internet-based application if
22 the distributor's internet site or internet-based application
23 contains obscene material.

24 Sec. _____. NEW SECTION. 235G.3 **Civil remedy — attorney**
25 **fees.**

26 1. A parent or guardian may institute a civil action
27 for damages for a violation of section 235G.2 on behalf of
28 any minor child for whom the parent or guardian is legally
29 responsible. The damages shall be five hundred dollars for
30 each violation of section 235G.2.

31 2. A court shall award a prevailing party in an action
32 under this section court costs and reasonable attorney fees and
33 expert witness fees.

34 Sec. _____. NEW SECTION. 235G.4 **Affirmative defense.**

35 1. It is an affirmative defense to any claim or action under

1 section 235G.3 that the distributor did all of the following:

2 *a.* Required a person accessing its internet site or
3 internet-based application to provide to the distributor
4 personal identification information verifying the person was
5 age eighteen or older when the person accessed the internet
6 site or internet-based application.

7 *b.* Required the person receiving the obscene material to
8 use an authorized access or identification code, as provided by
9 the information provider, before transmission of the obscene
10 material begins.

11 *c.* Previously issued the code by mailing it to the person
12 after ascertaining that the person was eighteen years of age or
13 older.

14 *d.* Established a procedure to immediately cancel the code of
15 any person after receiving notice, in writing or by telephone,
16 that the code has been lost, stolen, or used by persons
17 under the age of eighteen years or that the code is no longer
18 desired.

19 2. It shall not be an affirmative defense to any claim
20 or action under section 235G.3 that a minor accessed the
21 distributor's internet site or internet-based application
22 from an accredited school, public library, community college,
23 college, or university.

24 Sec. _____. NEW SECTION. **235G.5 Limitation of actions.**

25 An action shall not be maintained, at law or in equity, under
26 this chapter unless the action is commenced within thirty years
27 after the date of the discovery of the dissemination of obscene
28 material to a minor.

29 Sec. _____. NEW SECTION. **728.16 Internet dissemination of**
30 **obscene material to minors.**

31 1. *a.* As used in this section, "*distributor*" means a
32 person who owns or operates an internet site or internet-based
33 application.

34 *b.* A distributor shall not knowingly disseminate obscene
35 material by the use of an internet site or internet-based

1 application to a minor.

2 2. It shall be a defense in any prosecution for a violation
3 of subsection 1 by a distributor accused of knowingly
4 disseminating obscene material by the use of an internet site
5 or internet-based application to a minor that the distributor
6 has taken either of the following measures to restrict access
7 to the obscene material:

8 a. The distributor has done all of the following:

9 (1) Required the person receiving the obscene material to
10 use an authorized access or identification code, as provided by
11 the information provider, before transmission of the obscene
12 material begins.

13 (2) Previously issued the code by mailing it to the
14 applicant requiring the applicant to provide personal
15 identification information as defined in section 235G.1
16 verifying that the applicant was eighteen years of age or
17 older.

18 (3) Established a procedure to immediately cancel the
19 code of any person after receiving notice, in writing or by
20 telephone, that the code has been lost, stolen, or used by
21 persons under the age of eighteen years or that the code is no
22 longer desired.

23 b. The distributor accused has required payment by credit
24 card before transmission of the obscene material.

25 3. Any list of applicants or recipients compiled or
26 maintained by an information-access service provider for
27 purposes of compliance with subsection 2 is confidential and
28 shall not be sold or otherwise disseminated except upon order
29 of the court.

30 4. a. A violation of subsection 1 is an aggravated
31 misdemeanor.

32 b. A violation of subsection 1 by a distributor who has been
33 previously convicted of a violation of subsection 1 is a class
34 "D" felony.>

35 2. Title page, line 1, after <Act> by inserting <relating to

- 1 internet material, including the dissemination of and access to
- 2 obscene material by minors and>
- 3 3. By renumbering as necessary.

SALMON of Black Hawk